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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,790	06/05/2001	Jean Pierre De Vries	MCS-072-00	1728
27662	7590	06/02/2004	EXAMINER	
LYON & HARR, LLP 300 ESPLANADE DRIVE, SUITE 800 OXNARD, CA 93036			BAYAT, BRADLEY B	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,790

Applicant(s)

DE VRIES, JEAN PIERRE

Examiner

Bradley Bayat

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MLJ

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

Applicant's amendment dated March 8, 2004 has been considered and claims 1-23 remain pending. Therefore, claims 1-23 are again presented for examination on the merits.

Response to Arguments

Applicant's arguments filed March 8, 2004 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Shear recognizes the need for a comprehensive yet time efficient matching system wherein million of data are being compared to find matches, especially in a "matchmaker" scenario (columns 6-10). Hilsenrath also recognizes the inefficiency of database searching and provides for an automated interest searching mechanism wherein data is extracted and matched without requiring direct user intervention (columns 1-2).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

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time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The applicant further argues that neither reference teaches a progressive comparison of the interest wherein upon analyzing of certain matches the comparison is terminated and then continuing the progressive matching (applicant's response pages 8-13). The examiner respectfully disagrees. Shear provides for a comprehensive system that can provide for matching for value chains wherein match rule sets can be provided utilizing artificial intelligence or smart agents to carry out applicant's features (column 15-20). Hilsenrath also teaches that the process of matching entries is carried out until the desired number is obtained (column 11).

The applicant contends that it's feature wherein partial disclosure of information with regard to matching interest is not taught by either reference (applicant's response page 14). In fact Shear discloses utilizing controls and rules with regards to distribution of content or matching interest in a VDE environment, wherein delivery of only portions of content from one or more sources is provided (column 27, lines 8-9; columns 23-30).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear et al., U.S. Patent 6,112,181 in view of Hilsenrath et al., U.S. Patent 5,926,812.

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As per claims 1, Shear teaches a system for determining shared interests between at least two sets of interests, comprising: progressively comparing each interest in each set of interests to interests in every other set of interests (column 14, lines 12-26; figures 16A-C and associated text; column 8, line 26 – column 30, line 50); analyzing the results of the progressive comparison for determining whether any interests belonging to any set of interests partially matches any interests in any other set of interests (column 14, lines 27-30; column 8, line 26 – column 30, line 50); terminating the progressive comparison for specific interests with respect to each set of interests wherein the specific interests do not partially match any interests (Figures 18-21 and associated text; column 8, line 26 – column 30, line 50) and determining all shared interests between any of the at least two sets of interests by continuing the progressive comparison of interests to identify all interests belonging any set of interests that completely match interests in any other set of interests (Figures 16-20 and associated text; column 8, line 26 – column 30, line 50). Shear does not explicitly teach continuing the progressive comparison for specific interests with respect to each set of interests wherein the specific interests do partially match any interests. Hilsenrath teaches a comparison method for specific interests with respect to each set of interests wherein the specific interests do partially match any interests (Figures 1-5 and associated text; columns 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shear's system and method for matching with Hilsenrath's cluster generation and cluster similarity measurement to achieve a more accurate search result or comparison match, as per teachings of Hilsenrath.

As per claim 2, Shear discloses the system of claim 1 wherein each set of interests is encoded using a one-way hash for preventing an identification of partially matched encoded interests (Figure 26C, 29C, 32C, 42C and associated text).

As per claim 3, Shear discloses the system of claim 1 wherein each interest in each set of interests is encrypted (Figures 11, 12 and associated text; columns 25-30).

As per claim 4, Shear discloses the system of claim 1 wherein each set of interests is identified by unique users (column 19; Figures 29A and associated text).

As per claim 5, Shear discloses the system of claim 1 wherein each set of interests is identified by unique users from a list of predefined interests (Figure 53 and associated text).

As per claim 6, Shear discloses the system of claim 1 further comprising determining whether specific interests are closely matched with any interests in any other set of interests after terminating the progressive comparison for specific interests which do not partially match any interests (columns 9-10).

As per claims 7 and 20, Shear discloses the system of claims 6 and 19 wherein interests are categorized in a hierarchical structure in order to facilitate the determination as to whether the specific interests are closely matched with any interests in any other set of interests (columns 15-16).

As per claim 8, Shear discloses the system of claim 1 wherein all shared interests are disclosed between sets of interests having the shared interests (columns 8-10).

As per claim 9, Shear discloses the system of claim 1 wherein progressively comparing each interest further comprises progressively transmitting each interest via at least one encrypted communications channel (columns 14-15).

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As per claims 10 and 17, Shear teaches a computer-implemented process/computer-readable medium for automatically determining whether unique entities have any matched interests without disclosing non-matched interests, comprising: providing a set of interests for each entity (column 14, lines 12-26; figures 16A-C and associated text; column 8, line 26 – column 30, line 50); encoding each interest for each set of interests (Figure 26C and associated text); partially disclosing each encoded interest in each set of interests to each unique entity (column 27); automatically performing a comparison of each partially disclosed encoded interest with the partially disclosed interests in each other set of interests (column 27); determining whether there is a partial match of interests between the partially disclosed interests of any unique entities (columns 26-28); and automatically identifying interest matches between any unique entities through the continued automatic partial comparison of each encoded interest (Figure 10 and associated text; columns 27-30). Shear does not explicitly teach continuing to automatically perform the partial comparison of each encoded interest for specific interests for as long as there is a partial match of the specific interests. Hilsenrath teaches continuing to automatically perform the partial comparison of each encoded interest for specific interests for as long as there is a partial match of the specific interests between any unique entities (Figures 1-5 and associated text; columns 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shear's system and method for matching with Hilsenrath's cluster generation and cluster similarity measurement to achieve a more accurate search result or comparison match, as per teachings of Hilsenrath.

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As per claim 11, Shear discloses the computer-implemented process of claim 10 wherein encoding each interest comprises encoding each interest using a one-way hash (Figures 11, 12 and associated text; column 27).

As per claims 12 and 18, Shear discloses the computer-implemented process of claims 10 and 17 wherein automatically identifying interest matches between any unique entities comprises identifying complete interest matches (columns 54-58).

As per claims 13 and 19, Shear discloses the computer-implemented process of claims 10 and 17 wherein automatically identifying interest matches between any unique entities comprises identifying close interest matches (column 66).

As per claims 14, 22 and 23, Shear discloses the computer-implemented process of claim 10 and 22 wherein partially disclosing each encoded interest in each set of interests to each unique entity comprises transmitting each partially discloses interest via at least one encrypted communications channel (columns 14-15).

As per claim 15, Shear discloses the computer-implemented process of claim 10 wherein encoding each interest for each set of interests comprises using a common encoding scheme for each set of interests (columns 54-58).

As per claim 16, Shear discloses the computer-implemented process of claim 15 wherein a new common encoding scheme is used each time new sets of interests are compared (columns 68-70).

As per claim 21, Shear discloses the computer-readable medium of claim 17 wherein each interest is encoded prior to partially revealing each interest of each entity to each other entity (Figures 11, 12 and associated text; columns 14-15, 27, 54-58).

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

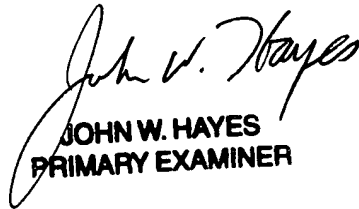
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Bayat whose telephone number is 703-305-8548. The examiner can normally be reached on Tuesday-Friday during normal business hours.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bbb


JOHN W. HAYES
PRIMARY EXAMINER